

**STATE OF NEW MEXICO
TWELFTH JUDICIAL DISTRICT
COUNTY OF OTERO**

Cause No. D-1215-CV-08-577

Judge: Matthew G. Reynolds (by Designation)

**VIRGIL BEAGLES; DEWAYNE BEAGLES,
ARLIN GAMBEL; and LINDA GAMBEL,
Plaintiffs,**

v.

**TIMBERON WATER & SANITATION DISTRICT;
GLENDA GENTRY; SHIRLEY HOLSTROM;
ARDEN SCHUG; JOE MAINELLO;
DICK DYSHART;**

Defendants.

RECEIVERSHIP ORDER

THIS CAUSE came on before the Court for trial on December 6, 2010, on the issue of the designation of a “Permanent” Receiver, the Plaintiffs Virgil Beagles and Dewayne Beagles appeared through their counsel, Doug Perrin, the Interim Receiver previously appointed by the Court, Dennis Karnes, appeared with his counsel, Lee Deschamps, and the individual Defendants appeared with their counsel, Kelly Cassels. Having heard the evidence presented, and being advised in the premises, the Court finds:

1. The Court has previously found that there existed a need to place the Timberon Water and Sanitation District into receivership for the reasons stated in The New Mexico Receivership Act.
2. The parties have agreed in open court that such need continues to exist currently and that a permanent receiver should be appointed for the District until the further Order of the Court.

3. Section 44-8-4 NMSA 1978 authorizes the placement of Timberon Water & Sanitation District into receivership and the appointment of a Receiver to manage the affairs of Timberon Water & Sanitation District until such time as the Court concludes that the financial affairs of Timberon Water & Sanitation District are in proper order.
4. Assets of the Timberon Water & Sanitation District need to be identified and in some instances, may need to be recovered by negotiation or litigation if necessary for the recovery of such assets.
5. Interim Receiver Dennis Karnes possesses the statutory qualifications for Receiver of the Timberon Water & Sanitation District.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED by this Court as follows:

1. The Court supervised receivership of Timberon Water & Sanitation District pursuant to the New Mexico Receivership Act (Sections 44-8-1 et seq. NMSA 1978) shall continue until further order of this Court.
2. Dennis Karnes is hereby appointed as permanent receiver for the District under the terms of his acceptance of employment previously entered herein and is hereby invested with full powers and duties required of a receiver by Section 44-8-7 NMSA 1978.
3. In addition, he is expressly authorized to retain the services of Mr. William J. McCamley, who shall assist him as assistant to the Receiver, and who shall be compensated upon the same terms as Mr. Karnes.
4. Mr. McCamley shall attend and monitor all board meetings and shall act as liaison between the Receiver and the individual members of the Board of Directors and

shall have responsibility in all areas assigned to him by Mr. Karnes, including the audit of the financial books and records of the District.

5. It is anticipated that Mr. Karnes and Mr. McCamley shall each average at least ten hours per week on site to conduct the business of the District, and to meet with members of the community.

6. The Board of Directors of the District shall cooperate fully with the Receiver and his Assistant, and may continue to meet on a monthly basis as has been the case previously, however, the Directors' functions shall be pro forma only except as directed otherwise by the Receiver or this Court; The Board may act as directed by the Receiver and additionally for the purposes of passing non-binding resolutions and memorials, and keeping the public honestly and fairly informed as to the affairs and status of the District, but they shall have no other power to conduct or direct the business of the District except as authorized in advance by the Receiver.

7. The Receiver shall have authority to institute and conduct litigation to recover assets for the District, but except for the proceedings already under way, and except for the collection of delinquent accounts, no other parties may be added to existing suits, nor other litigation commenced by the Receiver, without the prior approval of this Court, which approval shall be based upon a cost/benefit analysis for the District in pursuing any such litigation.

8. The Receiver shall oversee the business of the District, including its employees, and it shall be the primary duty of the Receiver to make the District solvent, and get it on a stable footing, with its financial records, assets, inventories, and affairs in proper order.

9. No Court approval shall be required for the negotiation, cancellation or creation of any contract by the Receiver and his counsel, nor for the settlement of any litigation which is commenced by the Receiver.

10. **No later than March 31, 2011**, the Receiver shall present to the Court an cost/benefit analysis of pursuing disgorgement of any potential assets which the Receiver believes can be reasonably recovered.

11. **By December, 2011**, the Receiver shall provide an audit for the District for the current fiscal year that is accepted and approved by the relevant State agencies.

12. On or before **January 31, 2011**, the Receiver shall file with the Court an inventory listing all assets of the District (the receivership estate) with or without estimated values.

13. On or before the **10th day of each month** the Receiver shall file with the Court a report of his activities for the proceeding month, and shall simultaneously, and through Mr. McCamley, provide a copy thereof to the Board of Directors.

14. A hearing shall be conducted at least annually by the Court in December of each year to determine whether it is necessary that the receivership continue.

15. Kelly Cassels is hereby discharged as the attorney for the individual Defendants and shall forthwith remit to the District any remaining Trust Funds provided by the District.

16. The law firm of Sanders, Bruin, Coll & Worely, P.A. shall turn over to the Receiver or his attorney all notes, files and documents reflecting or evidencing all matters in which said law firm or any of its members purported to represent the District, including, but not limited to their Letters of Engagement and Retainer Agreements for all matters

since January 1, 2005. Such documents shall be delivered to the Receiver (and all reasonable copying charges shall be paid for by the Receiver from the receivership estate) **no later than January 7, 2011.**

17. All prior orders entered herein shall remain in full force and effect to the extent that any of the terms thereof are not inconsistent herewith.

MATTHEW G. REYOLDS, District Judge, Div. II

APPROVED AS TO FORM:

Doug Perrin
Attorney for Plaintiffs

Kelly Mack Cassels
Attorney for Individual Defendants

Lee Deschamps
Attorney for TWSD Receiver